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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

COUNTRY MUTUAL INSURANCE  
COMPANY as successor to HOLYOKE  
MUTUAL INSURANCE COMPANY a/s/o  
LAKERIDGE VILLAS HOMEOWNERS  
ASSOCIATION,

Plaintiff,

vs.

TYANNE ELLIS-GUN,

Defendant.

Case Number:

3:19-cv-00463-LRH-WGC

**STIPULATION AND ORDER TO**  
**AMEND COMPLAINT**

Counsel for Plaintiff, Country Mutual Insurance Company, and Counsel for Defendant,  
Tyanne Ellis- Gunn, hereby stipulate to agree to Plaintiff filing the attached Amended Complaint

///

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///

1 in the above captioned matter. The Amended Complaint is intended to address a typographical  
2 error in the original Complaint related to the Plaintiff's address.

3  
4 Dated this 14<sup>th</sup> day of July, 2020

Dated this 14<sup>th</sup> day of July, 2020

5 **MARQUIS AURBACH COFFING**

**THORNDAL ARMSTRONG DELK  
BALKENBUSH & EISINGER**

6  
7 By: /s/ Ben Wharton/Tye S. Hanseen

By: /s/ Michael C. Winn

8 Tye S. Hanseen, Esq.  
9 Nevada Bar No. 10365  
10 10001 Park Run Drive  
11 Las Vegas, Nevada 89145  
12 *Local Counsel for Plaintiff*


Michael C. Winn, Esq.  
Nevada Bar No. 12664  
6590 S. McCarran Blvd., Suite B  
Reno, Nevada 89509  
*Attorneys for Defendant*

13 Benjamin D. Wharton, Esq.  
14 de Luca Levine, LLC  
15 Three Valley Square, Suite 220  
16 Blue Bell, PA 19422  
17 *Attorney for Plaintiff – pro hac vice*

18 **ORDER**

19 IT IS SO ORDERED:

20 DATED this 15th day of July, 2020.

21   
22 \_\_\_\_\_  
23 LARRY R. HICKS  
24 UNITED STATES DISTRICT JUDGE  
25  
26  
27  
28

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **STIPULATION AND ORDER TO AMEND COMPLAINT** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 14th day of July, 2020.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

N/A

/s/ Rosie Wesp  
an employee of Marquis Aurbach Coffing

# Exhibit 1

## Proposed Amended Complaint

MARQUIS AURBACH COFFING

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Las Vegas, Nevada 89145  
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ddeluca@delucalevine.com  
*Attorney for Plaintiff*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

COUNTRY MUTUAL INSURANCE  
COMPANY as successor to HOLYOKE  
MUTUAL INSURANCE COMPANY a/s/o  
LAKERIDGE VILLAS HOMEOWNERS  
ASSOCIATION,

Plaintiff,

vs.

TYANNE ELLIS-GUN,

Defendant.

Case Number:

3:19-cv-00463-LRH-WGC

**AMEND COMPLAINT**

Plaintiff, Country Mutual Insurance Company as successor to Holyoke Mutual Insurance Company as subrogee of Lakeridge Villas Homeowners Association (hereinafter "Plaintiff"), by and through undersigned counsel, hereby demands judgment against Defendant, Tyanne Ellis-Gun (hereinafter "Defendant"), and by way of Complaint against her avers as follows:

**PARTIES**

1. Plaintiff is a corporation incorporated in State of Illinois, having its principal place of business at 1701 Towanda Avenue, Bloomington, Illinois.

1           2.       At all times relevant hereto, Plaintiff was duly authorized to provide in the State  
2 of Nevada the insurance policy described herein.

3           3.       At all times relevant hereto, Plaintiff provided, inter alia, property insurance to  
4 Lakeridge Villas Homeowners Association (hereinafter referred to as “subrogor”) in connection  
5 with its business operations at a property that included the residence at 2104 Chicory Way in  
6 Reno, Nevada (hereinafter the “subject property”).

7           4.       In the wake of the incident described below, as a result of claims made on the  
8 aforementioned policy (which were duly paid pursuant thereto), Plaintiff became subrogated to  
9 certain recovery rights and interests of subrogor for monies paid thereunder, including the claims  
10 giving rise to this action.

11           5.       Defendant was at all times relevant hereto an adult individual who resided at 2104  
12 Chicory Way, Reno, Nevada.

13                               **JURISDICTION AND VENUE**

14           6.       Jurisdiction is based on 28 U.S.C. §1332(a)(1) as this action involves a  
15 controversy between citizens of different states, Plaintiff being a citizen of Illinois and Defendant  
16 alleged to be a citizen of Nevada; moreover, the amount in controversy exceeds the jurisdictional  
17 threshold of this Court (exclusive of interest and costs).

18           7.       Venue is proper in this district based on 28 U.S.C. §1391(a) in that the events  
19 giving rise to this claim occurred within this district.

20                               **STATEMENT OF FACTS**

21           8.       On or about April 20, 2018, a fire erupted at the subject property causing  
22 substantial loss and damage to subrogor’s property, as well as the imposition of other expenses  
23 and hardship besides.

24           9.       The investigation as to the fire’s origin and cause revealed that it was due to  
25 Defendant’s negligent, careless, and inattentive use of a candle.

26           10.       The fire resulted in significant harm to subrogor in an amount in excess of  
27 \$100,000.00; said harm was directly and proximately caused by Defendant as is more fully  
28 described below.

11. Subrogor submitted claims to Plaintiff pursuant to the aforementioned policy; Plaintiff paid such claims consistent with the terms and conditions thereof, thereby becoming subrogated to the recovery being pursued in this action.

**COUNT I – NEGLIGENCE**

12. Plaintiff repeats the facts and allegations set forth in the prior paragraphs of this Complaint as though they were set forth at length herein.

13. Defendant owed subrogor a duty of care to refrain from engaging in conduct that created a foreseeable likelihood of harm to subrogor's property and the imposition of other expenses and hardship besides.

14. Defendant knew or should have known that negligent use of a candle would place subrogor and others similarly situated in risk of foreseeable harm.

15. Defendant knew or should have known that her negligent use of a candle would lead to damages to subrogor and those similarly situated.

16. Defendant's negligence and other unlawful actions and/or omissions consisted of, but are not limited to, the following:

- (a) Carelessly and inattentively using a candle;
- (b) Failing to properly extinguish the candle;
- (c) Failing to exercise the reasonable care owed to subrogor; and/or
- (d) Otherwise acting negligently under the circumstances.

17. Defendant's negligent and other unlawful actions and/or omissions were the direct and proximate cause of the damages sustained by subrogor.

18. As a direct and proximate result of Defendant's aforementioned negligence, subrogor sustained and incurred damage to its property, as well as the imposition of other expenses and hardship, in an amount in excess of \$100,000.00.

19. Subrogor submitted claims to Plaintiff pursuant to the aforementioned policy; Plaintiff paid such claims consistent with the terms and conditions thereof, thereby becoming subrogated to the recovery being pursued in this action.





MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **AMENDED COMPLAINT** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the \_\_\_\_\_ day of July, 2020.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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N/A

\_\_\_\_\_  
an employee of Marquis Aurbach Coffing